IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 1110/2006

BHAGWAN SINGH Vs. STATE OF RAJASTHAN

DATE: 01.03.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. Dinesh Kumar Garg for the complainant-petitioner.
Mr. Ashwini Kumar Sharma, PP for the State.

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The present criminal revision petition under Section 397 r/w Section 401 Cr.P.C. is preferred by the petitioner against the order dated 07.09.2006 passed by the Additional Sessions Judge (Fast Track) No.2, Dholpur in Sessions Case No. 57/2005, by which he dismissed the application filed by the petitioner under Section 319 Cr.P.C. holding that the application filed by the private party is not maintainable.

I have heard rival submissions of the respective parties and have also gone through the relevant record as also the impugned order dated 07.09.2006.

The application moved by the petitioner under Section 319 Cr.P.C. has been dismissed by the Court below on the ground that the application under Section

319 Cr.P.C. cannot be filed by the private person and reliance has also been placed on the judgment rendered by the Hon'ble Supreme Court in the case of *M/s J.K. International Vs. State, AIR 2001 (SC) 1142,* wherein in para No. 12, the Hon'ble Supreme Court has observed as under:-

> "The right of such private individual to participate in the conduct of prosecution in the Sessions Court is very much restricted and is made subject to the control of the P.P. The limited role which a private person can be permitted to play for the prosecution in the Sessions Court has been adverted to above."

Considering the said ratio decided by the Hon'ble Supreme Court, the application of the petitioner moved under Section 319 Cr.P.C. has been dismissed, whereas as per the settled preposition of law, the complainant has a right to file such application. Having considered the matter on merit, as per merit the application deserves to be dismissed because the additional accused persons whose names are given in the application against whom the petitioner prayed to take cognizance are not essentially to be required and thus rejection of the application under Section 319 Cr.P.C. on merit in not interfered with.

Without expressing any opinion on law point, the application under Section 319 Cr.P.C. is not maintainable on merits also.

Consequently, the revision petition fails being devoid of merit and the same is hereby dismissed.

Record be sent back forthwith.

(K.S. RATHORE),J.

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